

(1) Enter the Webinar ID: 168-585-091; (2) Enter your name and email address (required). You must use your telephone for the audio portion of the meeting by dialing this TOLL number 1-631-992-3221; (3) Enter the Attendee phone audio access code 245-429-810; (4) Enter your audio phone pin (shown after joining the webinar). **Note:** We have disabled Mic/Speakers as an option and require all participants to use a telephone or cell phone to participate. Technical Information and System Requirements: PC-based attendees are required to use Windows® 7, Vista, or XP; Mac®-based attendees are required to use Mac OS® X 10.5 or newer; Mobile attendees are required to use iPhone®, iPad®, Android™ phone or Android tablet (see <https://www.gotomeeting.com/webinar/ipad-iphone-android-webinar-apps>). You may send an email to Mr. Kris Kleinschmidt at [Kris.Kleinschmidt@noaa.gov](mailto:Kris.Kleinschmidt@noaa.gov) or contact him at (503) 820-2280, extension 411 for technical assistance.

**Council address:** Pacific Fishery Management Council, 7700 NE Ambassador Place, Suite 101, Portland, OR 97220-1384.

**FOR FURTHER INFORMATION CONTACT:** Kerry Griffin, Pacific Council; telephone: (503) 820-2409.

**SUPPLEMENTARY INFORMATION:** The purpose of the meeting is for the CPSMT to develop materials, including a proposed purpose and need statement, to assist the Council in establishing the scope for a potential action to revise the Pacific sardine live bait provisions in the Coastal Pelagic Species Fishery Management Plan, when the Pacific sardine biomass is in an overfished condition. The Council established a process that includes scoping at the June 2018 meeting, adopting a range of alternatives at the September 2018 meeting, and final action at the November 2018 meeting.

Although non-emergency issues not contained in the meeting agenda may be discussed, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically listed in this document and any issues arising after publication of this document that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the intent to take final action to address the emergency.

#### Special Accommodations

The public listening station is physically accessible to people with

disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Mr. Kris Kleinschmidt ([kris.kleinschmidt@noaa.gov](mailto:kris.kleinschmidt@noaa.gov); (503) 820-2411) at least 10 days prior to the meeting date.

Dated: April 17, 2018.

**Tracey L. Thompson,**

*Acting Deputy Director, Office of Sustainable Fisheries, National Marine Fisheries Service.*

[FR Doc. 2018-08342 Filed 4-19-18; 8:45 am]

**BILLING CODE 3510-22-P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

**RIN 0648-XG118**

#### Fisheries of the South Atlantic; South Atlantic Fishery Management Council; Public Meeting

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Notice of a public meeting.

**SUMMARY:** The South Atlantic Fishery Management Council (Council) will hold a meeting of its Scientific and Statistical Committee (SSC) and Socio-Economic Panel (SEP) to review the seasonal autoregressive integrated moving average (SARIMA) model proposed for use by the Southeast Regional Office (SERO) staff to conduct management analyses. See **SUPPLEMENTARY INFORMATION**. **DATES:** The SSC and SEP meeting will be held via webinar on Monday, May 7, 2018, from 10 a.m. to 12 p.m.

#### ADDRESSES:

**Meeting address:** The meeting will be held via webinar. The webinar is open to members of the public. Those interested in participating should contact Mike Errigo at the Council office (see **FOR FURTHER INFORMATION CONTACT**) to request an invitation providing webinar access information. Please request webinar invitations at least 24 hours in advance of the webinar.

**Council address:** South Atlantic Fishery Management Council, 4055 Faber Place Drive, Suite 201, N. Charleston, SC 29405.

**FOR FURTHER INFORMATION CONTACT:** Mike Errigo; 4055 Faber Place Drive, Suite 201, North Charleston, SC 29405; phone: (843) 571-4366 or toll free: (866) SAFMC-10; fax: (843) 769-4520; email: [mike.errigo@safmc.net](mailto:mike.errigo@safmc.net).

**SUPPLEMENTARY INFORMATION:** This meeting is held to review the SARIMA model proposed for use in management

analyses by SERO staff. The SSC decided at their October 24-26, 2017 meeting in Charleston, SC that the complexity of the SARIMA model made it less favorable as a management tool. They also determined that the method using the last 3 years of fishery data was likely more representative of the current fishery than using the entire time series, as was done in the SARIMA model. However, the SEP also reviewed the SARIMA model and concluded that in principle, the SARIMA model is superior to using average catch rates from the last 3 years. The SEP's recommendation was to present both models to the Council as both have pros and cons.

Items to be addressed during this meeting

Review the proposed SARIMA model and provide comments and recommendations as necessary.

#### Special Accommodations

The meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to the Council office (see **ADDRESSES**) at least 5 business days prior to the meeting.

**Note:** The times and sequence specified in this agenda are subject to change.

**Authority:** 16 U.S.C. 1801 *et seq.*

Dated: April 17, 2018.

**Tracey L. Thompson,**

*Acting Deputy Director, Office of Sustainable Fisheries, National Marine Fisheries Service.*

[FR Doc. 2018-08327 Filed 4-19-18; 8:45 am]

**BILLING CODE 3510-22-P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

**RIN 0648-XG164**

#### South Atlantic Fishery Management Council; Public Meetings

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Notice of a public meeting.

**SUMMARY:** The South Atlantic Fishery Management Council (Council) will hold a meeting of its Spiny Lobster Advisory Panel.

**DATES:** The meeting will be held via webinar on May 7, 2018, from 1 p.m. until 4 p.m.

**ADDRESSES:** **Council address:** South Atlantic Fishery Management Council, 4055 Faber Place Drive, Suite 201, N. Charleston, SC 29405.

**FOR FURTHER INFORMATION CONTACT:** Kim Iverson, Public Information Officer, SAFMC; phone: (843) 571-4366 or toll free: (866) SAFMC-10; fax: (843) 769-4520; email: [kim.iverson@safmc.net](mailto:kim.iverson@safmc.net).

**SUPPLEMENTARY INFORMATION:** Agenda items for the Spiny Lobster Advisory Panel include the following: A review of Spiny Lobster Amendment 13 (gear requirements and cooperative management procedures), development of a Fishery Performance Report for spiny lobster, and a discussion of regulatory reform. Advisory panel members will provide recommendations as appropriate.

### Special Accommodations

The meeting is physically accessible to people with disabilities. Requests for auxiliary aids should be directed to the Council office (see **ADDRESSES**) 3 days prior to the public meeting.

**Note:** The times and sequence specified in this agenda are subject to change.

**Authority:** 16 U.S.C. 1801 *et seq.*

Dated: April 17, 2018.

**Tracey L. Thompson,**

*Acting Deputy Director, Office of Sustainable Fisheries, National Marine Fisheries Service.*

[FR Doc. 2018-08340 Filed 4-19-18; 8:45 am]

**BILLING CODE 3510-22-P**

## DEPARTMENT OF COMMERCE

### Patent and Trademark Office

[Docket No.: PTO-P-2018-0033]

### Request for Comments on Determining Whether a Claim Element Is Well-Understood, Routine, Conventional for Purposes of Subject Matter Eligibility

**AGENCY:** United States Patent and Trademark Office, Commerce.

**ACTION:** Request for comments.

**SUMMARY:** The U.S. Court of Appeals for the Federal Circuit (Federal Circuit) recently issued a decision regarding the inquiry of whether a claim limitation represents well-understood, routine, conventional activities (or elements) to a skilled artisan in the relevant field. Specifically, the Federal Circuit found that whether a claim element, or combination of elements, represents well-understood, routine, conventional activities to a skilled artisan in the relevant field is a question of fact. The United States Patent and Trademark Office (USPTO) has implemented this decision in a memorandum recently issued to the Patent Examining Corps (the *Berkheimer* memorandum). The *Berkheimer* memorandum is available to the public on the USPTO's internet

website. Examiners had been previously instructed to conclude that an element (or combination of elements) is well-understood, routine, conventional activity *only* when the examiner can readily conclude that the element(s) is widely prevalent or in common use in the relevant industry. The *Berkheimer* memorandum now clarifies that such a conclusion must be based upon a factual determination that is supported as discussed in the memorandum. Additionally the *Berkheimer* memorandum now also specifies that the analysis for determining whether an element (or combination of elements) is widely prevalent or in common use is the same as the analysis under 35 U.S.C. 112(a) as to whether an element is so well-known that it need not be described in detail in the patent specification. The USPTO is now seeking public comment on its subject matter eligibility guidance, and particularly its guidance in the *Berkheimer* memorandum to the Patent Examining Corps.

**DATES: Comment Deadline Date:** Written comments must be received on or before August 20, 2018.

**ADDRESSES:** Comments must be sent by electronic mail message over the internet addressed to: [Eligibility2018@uspto.gov](mailto:Eligibility2018@uspto.gov).

Electronic comments submitted in plain text are preferred, but also may be submitted in ADOBE® portable document format or MICROSOFT WORD® format. Comments not submitted electronically should be submitted on paper in a format that facilitates convenient digital scanning into ADOBE® portable document format. The comments will be available for viewing via the USPTO's internet website (<http://www.uspto.gov>). Because comments will be made available for public inspection, information that the submitter does not desire to make public, such as an address or phone number, should not be included in the comments.

**FOR FURTHER INFORMATION CONTACT:** Carolyn Kosowski, Senior Legal Advisor, at 571-272-7688 or Matthew Sked, Senior Legal Advisor, at 571-272-7627, both with the Office of Patent Legal Administration.

### SUPPLEMENTARY INFORMATION:

*I. Federal Circuit Decision in Berkheimer:* The Federal Circuit recently issued a precedential decision holding that the question of whether certain claim limitations are well-understood, routine, conventional elements raised a disputed factual issue, which precluded summary judgment that all of the claims at issue were not

patent eligible. *See Berkheimer v. HP Inc.*, 881 F.3d 1360 (Fed. Cir. 2018). Shortly thereafter, the Federal Circuit reaffirmed the *Berkheimer* standard in the context of a judgment on the pleadings and judgment as a matter of law.<sup>1</sup> While summary judgment, judgment on the pleadings, and judgment as a matter of law standards in civil litigation are generally inapplicable during the patent examination process, these decisions inform the inquiry into whether an additional element (or combination of additional elements) represents well-understood, routine, conventional activity. The USPTO has implemented this decision in the *Berkheimer* memorandum, which was recently issued to the Patent Examining Corps and is available to the public on the USPTO's internet website.

The USPTO recognizes that unless careful consideration is given to the particular contours of subject matter eligibility (35 U.S.C. 101), it could “swallow all of patent law.” *Alice Corp. v. CLS Bank International*, 573 U.S. \_\_\_, \_\_\_, 134 S. Ct. 2347, 2352 (2014) (citing *Mayo Collaborative Servs. v. Prometheus Labs., Inc.*, 566 U.S. 66, 71 (2012)). The *Berkheimer* memorandum provides additional USPTO guidance that will further clarify how the USPTO is determining subject matter eligibility in accordance with prevailing jurisprudence. Specifically, the *Berkheimer* memorandum addresses the limited question of whether an additional element (or combination of additional elements) represents well-understood, routine, conventional activity. The USPTO is determined to continue its mission to provide clear and predictable patent rights in accordance with this rapidly evolving area of the law and, to that end, may issue further guidance in the future.

*II. Well-Understood, Routine, Conventional Activity:* The USPTO's current understanding of the judicial framework distinguishing patents and applications that claim laws of nature, natural phenomena, and abstract ideas from those that claim patent-eligible

<sup>1</sup> *See Aatrix Software, Inc. v. Green Shades Software, Inc.*, 882 F.3d 1121 (Fed. Cir. 2018) (reversing a judgment on the pleadings of ineligibility, finding that whether the claims in the challenged patent perform well-understood, routine, conventional activities is an issue of fact); *Exergen Corp. v. Kaz USA, Inc.*, Nos. 2016-2315, 2016-2341, 2018 WL 1193529, at \*1 (Fed. Cir. Mar. 8, 2018) (non-precedential) (affirming a district court's denial of a motion for judgment as a matter of law of patent ineligibility, thus upholding the district court's conclusion that the claims were drawn to a patent eligible invention, concluding that the district court's fact finding that the claimed combination was not proven to be well-understood, routine, conventional was not clearly erroneous).